

**U.S. DISTRICT COURT**  
**For the**  
**EASTERN DISTRICT OF MASSACHUSETTS**

FILED  
CLERK'S OFFICE

NOV 19 2004

DOCKET NO:

**04 - 12451 JLT**

ROUBEN MADIKIANS,  
Plaintiff,

v.

AMERICAN AIRLINES ASSOCIATION  
OF PROFESSIONAL FLIGHT  
ATTENDANTS ("APFA"),  
Defendant,

AMERICAN AIRLINES, CO. ("AA")  
Defendant,

JULIA CARRIGAN,  
Personally and in her capacity as  
Boston Domestic Chair of APFA  
Defendant,

KELLY COX,  
Personally and in her capacity as  
AA Boston Based Manager,  
Defendant; and

AMY MILENKOVIC,  
Personally and in her capacity as  
APFA Representative,  
Defendant.

**COMPLAINT**

**AND**

**DEMAND FOR JURY TRIAL**

RECEIPT # \_\_\_\_\_  
AMOUNT \$ 150.00  
SUMMONS ISSUED 5  
LOCAL RULE 4.1 \_\_\_\_\_  
WAIVER FORM \_\_\_\_\_  
MCF ISSUED \_\_\_\_\_  
BY DPTY. CLK. M.F.  
DATE 11/19/04

**MAGISTRATE JUDGE** MBB

**INTRODUCTION**

1. The plaintiff, Mr. Rouben Madikians, seeks damages from the defendants for retaliation and hostile work environment and defamation, in connection with exercising a legal activity in his capacity as a Union Member and employee of American Airlines.

## **PARTIES**

2. Plaintiff Mr. Rouben Madikians (hereinafter "Madikians"), is a resident of Massachusetts, residing at 15 St. George Street, Apt. 3, Boston, Massachusetts 02118, and was and is an employee of American Airlines Co., and a member in good standing of the Association of Professional Flights Attendants.
3. Defendant Association of Professional Flight Attendants (hereinafter "APFA"), is an organized collective bargaining association, and operates, in relevance herein, at 20 Chestnut Street, Charlestown, Massachusetts 02129.
4. Defendant American Airlines Co. (hereinafter "AA"), is a corporation having a place of business in Massachusetts at Logan International Airport, Terminal B, East Boston, Massachusetts 02128.
5. Defendant Julia Carrigan (hereinafter "Carrigan"), is a resident of Massachusetts and is and was at all relevant times the Boston Domestic Chairperson of the APFA, and has a business address at 20 Chestnut Street, Charlestown, Massachusetts 02129.
6. Defendant Kelly Cox (hereinafter "Cox"), is a resident of Massachusetts and was at all relevant times the Boston Based Manager of AA, and has a mailing address at Logan International Airport, Terminal B, East Boston, Massachusetts 02128.
7. Defendant Amy Milenkovic (hereinafter "Milenkovic"), is a resident of Massachusetts and is and was at all relevant times the APFA Representative at the Boston Base of APFA, and has a mailing address at 20 Chestnut Street, Charlestown, Massachusetts 02129.

## **FACTS**

8. Madikians was employed by AA, and was a member of the APFA at all relevant times.
9. On or about December 23, 2003, Madikians informed Carrigan and Cox of his initiation of a petition demanding her removal in her capacity as APFA Boston Domestic Chair.

10. On or about December 30, 2003, Madikians traveled to Dallas, Texas to inspect records and discover events related to Carrigan in her capacity; those records are open and available to all members in good standing of the APFA.
11. On or about January 30, 2004, Madikians commenced to solicit signatures from APFA members in good standing. He released portions of the records obtained relating to dates and times of travel of defendant Carrigan while purportedly on Union business when in fact, she was attending personal events benefiting neither the Union nor AA.
12. On or about February 1, 2004, Madikians became aware that Carrigan and Milenkovic initiated a "smear" campaign against him, and were maliciously and falsely stating that Madikians had been stalking Carrigan's family and minor son, which is especially outrageous and damaging to Madikians' reputation because he is known by the defendant to be gay, and that such claims as stocking constitute a crime.
13. On or about February 4, 2004, Carrigan with the approval of AA and Cox, published to all APFA members and caused to be displayed in obvious areas or the work place a "Winter 2004 Base Brief" newsletter in which Carrigan stated that Madikians had been stalking her family and minor son, both of which is false.
14. On or about January 23, 2004, Carrigan filed a police report with the Boston Police stating that on January 20, 2004 she was telephoned by Madikians requesting her whereabouts on certain days when she was acting as Boston Domestic Chair, and although "Victim states that she does not really feel threatened by subject," she "wants to file to report to begin reporting suspect's action in case she feels more threatened."
15. On or about February 16, 2004, Madikians demanded that AA conduct an investigation into the events, informing AA that he was being subjected to a hostile work environment in retaliation.
16. On or about February 25, 2004, Madikians filed formal charges with APFA demanding an investigation of Carrigan as an officer and agent of APFA.
17. On or about the first week of March 2004, in an open meeting related to Union business, Carrigan stated to the audience that Madikians was stalking her child.

18. On or about March 21, 2004, Madikians filed a further grievance and request for hearing to APFA.
19. On or about July 21, 2004, AA completed an investigation only upon several requests by Madikians. AA took no known action and declined to deliver to Madikians its findings and/or recommendations.
20. On or about June 2004, APFA informed Madikians that it would not accept his grievance, and no investigation was performed.
21. On or about February 25, 2004, Madikians filed a disability claim for suffered emotional distress which manifested itself emotionally and physically. He was unable to return to work because of the hostile work environment and the damage to his reputation.
22. On or about February 27, 2004, Madikians filed a Charge of Discrimination with the Massachusetts Commission Against Discrimination alleging retaliation, slander, Amended on or about May 21, 2004 to include discrimination based on sexual orientation and use of the term "stalking."
23. On or about July 21, 2004, Madikians was informed that the investigation was completed and closed. No known action was taken.
24. On or about August 23, 2004, the Massachusetts Commission Against Discrimination dismissed the Charge of Discrimination based on lack of jurisdiction, thereby granting under M.G.L. c. 151B, s. 9, jurisdiction to this court on those claims.
25. Madikians continues to suffer both emotionally and physically; he suffers from reduced earnings, professional standing and reputation.

**COUNTS**

**COUNT ONE  
RETALIATION**

26. The plaintiff repeats, restates, and incorporates the allegation contained in paragraphs one through 24 as though specifically re-written and set forth herein.
25. Plaintiff disclosed public documents to interested parties, those documents believed by the plaintiff to indicate wrongdoings on the part of defendant Carrigan.
26. Defendant Carrigan retaliated by publishing untrue documents, slandering, and intentionally causing emotional distress to the plaintiff, causing a hostile environment.
27. Defendant AA knew or should of known of the hostile environment, and permitted the hostile environment to exist and continue.
28. Defendant APFA knew or should of known of the hostile environment, and permitted the hostile environment to exist and continue.

WHEREFORE Plaintiff demands judgment against the defendants on Count One in an amount to be determined at trial including interest, costs, reasonable attorneys' fees and any and all relief deemed fair and proper.

**COUNT TWO  
DEFAMATION**

29. The plaintiff repeats, restates, and incorporates the allegation contained in paragraphs one through 28 as though specifically re-written and set forth herein.
30. Defendant Carrigan did publish a defamation concerning the plaintiff to the public, and that the defamation was false, or alternatively, if true then it was done with malice.
31. Defendant APFA, as respondeat superior to defendant Carrigan, is liable for the actions of its agent Carrigan.
32. Defendant Cox did permit and approve that publication for dissemination to the public, and knew that it was false, or alternatively, if it was true then it was done with malice.

33. Defendant AA, as respondeat superior to defendant Cox, is liable for the actions of its employee defendant Cox.

34. Plaintiff was damaged in his profession, held by his fellows in contempt, scorn and/or ridicule, and his standing was impaired.

WHEREFORE Plaintiff demands judgment against the defendants on Count Two in an amount to be determined at trial including interest, costs, reasonable attorneys' fees and any and all relief deemed fair and proper.

### **COUNT THREE INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

35. The plaintiff repeats, restates, and incorporates the allegation contained in paragraphs one through 34 as though specifically re-written and set forth herein.

36. Defendant Carrigan did intentionally cause the plaintiff emotional distress by harassing him, publishing malicious untruths, or if true, publishing with malice, and slandering him to the public.

37. Defendant APFA, as respondeat superior to defendant Carrigan, is liable for the actions of its agent Carrigan, and it had actual knowledge of the distress caused by defendant Carrigan.

38. Defendant Cox did permit and approve that publication for dissemination to the public, and knew that it was false, or alternatively, if it was true then it was done with malice.

39. Defendant AA, as respondeat superior to defendant Cox, is liable for the actions of its employee defendant Cox.

40. Plaintiff was damaged in his profession, held by his fellows in contempt, scorn and/or ridicule, and his standing was impaired.

WHEREFORE Plaintiff demands judgment against the defendants on Count Three in an amount to be determined at trial including interest, costs, reasonable attorneys' fees and any and all relief deemed fair and proper.

**COUNT FOUR  
FAILURE OF FAIR REPRESENTATION**

41. The plaintiff repeats, restates, and incorporates the allegation contained in paragraphs one through 40 as though specifically re-written and set forth herein.
42. Plaintiff filed a grievance with defendant APFA, wherein he demanded an investigation into the actions of defendants Carrigan and Milenkovic.
43. Defendant APFA failed to take any action, and failed to represent plaintiff.
44. Defendant APFA actions were arbitrary, capricious and discriminatory, the in breach of the duty of fair representation.


WHEREFORE Plaintiff in demands judgment against the defendants on Count Four in an amount to be determined at trial including interest, costs, reasonable attorneys' fees, excess damages, and any and all relief deemed fair and proper.

**DEMAND FOR JURY TRIAL**

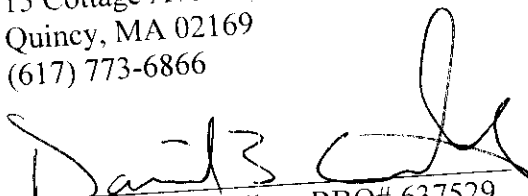
Plaintiff respectfully demands a jury trial for all counts triable.

Respectfully Submitted,  
Rouben Madikians,  
By his attorneys,

Dated: 11/18/2004

  
David D. Nielson - BBO# 652743  
Law Office of David D. Nielson  
15 Cottage Avenue, Ste. 301  
Quincy, MA 02169  
(617) 773-6866

Dated: 11/18/04

  
Daniel J. Ciccariello - BBO# 637529  
Law Office of Daniel J. Ciccariello  
15 Cottage Avenue, Ste. 301  
Quincy, MA 02169  
(617) 770-9901



I. (a) PLAINTIFFS Rouben Madikians

DEFENDANTS Am. Airlines Assoc. of Prof. Flight Attendants, Am Airlines, et. al.

(b) County of Residence of First Listed Plaintiff Suffolk  
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Suffolk  
(IN U.S. PLAINTIFF CASES ONLY)  
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)  
David D. Nielson, 15 Cottage Ave, #301, Quincy, MA 02160 (617) 773-6866; Daniel J. Ciccariello, 15 Cottage Ave, #301, Quincy, MA 02160 (617) 770-9901

Attorneys (If Known)

04-12451 JLT

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State PTF ☐ DEF ☐  
Incorporated or Principal Place of Business In This State PTF ☐ DEF ☐  
Citizen of Another State ☐ Incorporated and Principal of Business In Another State ☐  
Citizen or Subject of a Foreign Country ☐ Foreign Nation ☐

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input checked="" type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights <b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

(Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Union Official retaliation; defamation, intentional infliction of emotional distress and failure of fair representation in relation to plaintiff-employee union member practicing a protected activity, to wit, a petition to remove elected union official.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION DEMAND UNDER F.R.C.P. 23

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE 11/18/2004

SIGNATURE OF ATTORNEY OF RECORD

*David D. Nielson*

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE



UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) Rouben Madikians v. American Airlines Association of Professional Flight Attendants
2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1)).
- \_\_\_\_\_ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- ✓ \_\_\_\_\_ II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950. \* Also complete AO 120 or AO 121 for patent, trademark or copyright cases
- \_\_\_\_\_ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- \_\_\_\_\_ IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- \_\_\_\_\_ V. 150, 152, 153.
3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(E)). \_\_\_\_\_
4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT?  
YES ☐ NO ☒
5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST? (SEE 28 USC 2403)  
YES ☐ NO ☒  
IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY?  
YES ☐ NO ☐
6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC 2284?  
YES ☐ NO ☒
7. DO ALL PARTIES IN THIS ACTION RESIDE IN THE CENTRAL DIVISION OF THE DISTRICT OF MASSACHUSETTS WORCESTER COUNTY? - (SEE LOCAL RULE 40.1(C)).  
OR IN THE WESTERN DIVISION (BERKSHIRE, FRANKLIN, HAMPDEN OR HAMPSHIRE COUNTIES)? (SEE LOCAL RULE 40.1(D)).  
YES ☐ NO ☒
8. DO ALL OF THE PARTIES RESIDING IN MASSACHUSETTS RESIDE IN THE CENTRAL AND/OR WESTERN DIVISIONS OF THE DISTRICT?  
YES ☐ NO ☒  
(a) IF YES, IN WHICH DIVISION DOES THE PLAINTIFF RESIDE? \_\_\_\_\_
9. IN WHICH DIVISION DO THE ONLY PARTIES RESIDING IN MASSACHUSETTS RESIDE? \_\_\_\_\_
10. IF ANY OF THE PARTIES ARE THE UNITED STATES, COMMONWEALTH OF MASSACHUSETTS, OR ANY GOVERNMENTAL AGENCY OF THE U.S.A. OR THE COMMONWEALTH, DO ALL OTHER PARTIES RESIDE IN THE  
CENTRAL DIVISION; YES ☐ NO ☐ OR WESTERN DIVISION; YES ☐ NO ☐
11. ALTERNATIVE DISPUTE RESOLUTION - IS THIS CASE SUITABLE FOR ADR? IF SO, BY WHICH ADR?  
EARLY NEUTRAL EVALUATION ☐ MEDIATION ☒ SUMMARY JURY/BENCH TRIAL ☐  
MINI-TRIAL ☐ OTHER ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME David D. Nielson, Esq.ADDRESS 15 Cottage Ave, Suite 301 Quincy, MA 02169TELEPHONE NO. (617) 773-6866

04 - 12451 JLT